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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/052,908	10/29/2001	Waheguru Pal Singh	LYNN/120.A	9750

7590 06/29/2004

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EXAMINER

QAZI, SABIHA NAIM

ART UNIT	PAPER NUMBER
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1616

DATE MAILED: 06/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/052,908	SINGH ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Sabiha N. Qazi	1616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on December 12, 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 26-37,40-42 and 44-49 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 26-37,40-42 and 44-49 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

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**Continued Examination Under 37 CFR 1.114**

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on December 12, 2003 has been entered.

Amendments are entered. Claims 26-37, 40-42, and 44-49 are pending. No claim is allowed.

**Claim Rejections - 35 USC § 112**

Rejection under 35 USC § 112 is withdrawn since the claims have been amended.

**Claim Rejections - 35 USC § 103**

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

1. Claims 26-37, 40-42, and 44-49 stand rejected under 35 U.S.C. 103(a) as being unpatentable over US 5503765 (SCHEPERS et al) and US 5268003 (COOPE et al). Both references teach a dipercarboxylic composition, which embrace the Applicant's claimed invention.

SCHEPERS et al discloses a non-aqueous liquid composition of dipercarboxylic acid, which is stable even at room temperature. It also teaches that this composition may be stably incorporated for five days or greater. It gives the same range (at least 0.1%) as the applicant's

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claimed invention. See the entire document, especially the abstract, lines 22-37 in Column 2, the examples, and claims.

COOPE et al discloses an aqueous liquid composition of dipercarboxylic acid, which is stable even at room temperature. See the entire document, especially lines 16-21 in Column 8, examples, and claims.

Examiner notes that COOPE et al does *not* disclose a range. However, with SCHEPERS et al, it would have been obvious to those with ordinary skill in the art to put these two teachings together at the time of invention. There is enough motivation in the cited references to prepare the composition in the presently claimed invention. No unobvious or unexpected results are noted.

2. Claims 26-37, 40-42, and 44-49 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 5437868 (OAKES et al) and US 5049298 (PLOUMEN et al). Both references teach dipercarboxylic acid compositions, which embrace the Applicant's claimed invention.

OAKES et al teaches peroxyacid antimicrobial concentrates for sanitizing surfaces, facilities, and equipment found in food manufacturing and food processing and food service industries, and typically hard non-porous surfaces in the health care industry. (See lines 10-15 in col. 1) Furthermore, OAKES et al teaches diperoxydicarboxylic acid aqueous compositions. See the entire document, especially the examples and claims (*especially* claim 2).

PLOUMEN et al teaches a process for the preparation of organic peroxyacid containing bleaching granules or powder. (See lines 45-47 in col. 2) Furthermore, PLOUMEN et al lists

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preferred diperoxy acids in lines 60-68 in col. 4 and 1-8 in col. 5. See the entire document, especially the examples, the claims, and Tables I and II.

The instant invention differs from the prior art in that the presently claimed invention is using the dipercarboxylic acid in solid form and using it as a sterilant in aqueous form while the prior art teaches the same aqueous composition for use as peroxyacid antimicrobial concentrates for sanitizing surfaces, facilities, and equipment found in food manufacturing and food processing and food service industries, and typically hard non-porous surfaces in the health care industry (OAKES et al). The prior art teaches the solid form of peroxyacids in the form of granules or powder (PLOUMEN et al).

It would have been obvious to one skilled in the art at the time of invention to prepare additional beneficial compositions in solid or aqueous form because the prior art teaches it for the reasons cited above.

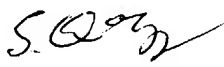
In the light of the forgoing discussion, the Examiner's ultimate legal conclusion is that the subject matter defined by the instant claims would have been obvious within the meaning of 35 U.S.C. 103(a).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sabiha N. Qazi whose telephone number is (571) 272-0622. The examiner can normally be reached on any business day.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thurman Page can be reached on (571) 272-0602. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
SABIHA QAZI, PH.D  
PRIMARY EXAMINER

Saturday, June 26, 2004